

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID LEE DURACHKO,

Petitioner

v.

MARIROSA LAMAS,

Respondent

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CIVIL ACTION NO. 3:13-1731

(Judge Mannion)

MEMORANDUM

Petitioner, David Lee Durachko, an inmate confined in the Rockview State Correctional Institution, Bellefonte, Pennsylvania, filed the instant petition for writ of habeas corpus pursuant to [28 U.S.C. § 2254](#). He attacks a conviction imposed by the Court of Common Pleas for Centre County, Pennsylvania. (Doc. No. [1](#)).

On July 2, 2013, in accordance with [United States v. Miller, 197 F.3d 644 \(3d Cir. 1999\)](#) and [Mason v. Meyers, 208 F.3d 414 \(3d Cir. 2000\)](#), the Court issued formal notice to Durachko that he could either have the petition ruled on as filed, that is, as a [§ 2254](#) petition for writ of habeas corpus and heard as such, but lose his ability to file a second or successive petition, absent certification by the court of appeal, or withdraw his petition and file one all-inclusive § 2254 petition within the one-year statutory period prescribed by the Antiterrorism Effective Death Penalty Act (“AEDPA”). (Doc. No. [5](#)).

On July 12, 2013, Durachko returned the notice of election, indicating

that he wished to withdraw his petition so that he may file one, all-inclusive petition under [28 U.S.C. § 2254](#) within the one-year limit for filing such a petition. (Doc. No. [8](#)). Thus, the petition will be deemed withdrawn without prejudice. A separate Order will be issued.

s/Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Dated: July 23, 2013

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